

QUILL & ARROW, LLP
Kevin Y. Jacobson (SBN 320532)
Gregory Sogyoan (SBN 316832)
10900 Wilshire Blvd., Suite 300
Los Angeles, CA 90024

Attorneys for Plaintiff,
MARIA D. GRAHAM

SQUIRE PATTON BOGGS (US) LLP

Sean P. Conboy (SBN 214487)
Anthony P. Greco (SBN 296398)
555 South Flower St. 31st Floor
Los Angeles, CA 90071

Attorneys for Defendant,
VOLKSWAGEN GROUP OF AMERICA, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARIA D. GRAHAM, an individual,

Plaintiff,

V.

VOLKSWAGEN GROUP OF
AMERICA, INC., a New Jersey
Corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 5:22-cv-01501

*Assigned to the Hon. John W.
Holcomb Magistrate Judge Karen
L. Stevenson in Courtroom 9D*

**AMENDED STIPULATION AND
PROTECTIVE ORDER –
CONFIDENTIAL DESIGNATION
ONLY**

IT IS HEREBY STIPULATED by and between the Parties to *Maria D. Graham v. Volkswagen Group of America, Inc.*, (Maria D. Graham and Volkswagen Group of America, Inc.), by and through their respective counsel of

1 record, that in order to facilitate the exchange of information and documents which
2 may be subject to confidentiality limitations on disclosure due to federal laws, state
3 laws, and privacy rights, the Parties stipulate as follows:

4 1. **A. PURPOSES AND LIMITATIONS:**

5 The protections to be afforded by this Stipulation and Protective Order are
6 limited to discovery in this action, United States District Court, Central District of
7 California Case No. 5:22-cv-01501. Discovery in this action is likely to involve
8 production of confidential, proprietary, or private information for which special
9 protection from public disclosure and from use for any purpose other than
10 prosecuting this litigation may be warranted. Accordingly, the parties hereby
11 stipulate to and petition the Court to enter the following Stipulated Protective
12 Order. The parties acknowledge that this Order does not confer blanket protections
13 on all disclosures or responses to discovery and that the protection it affords from
14 public disclosure and use extends only to the limited information or items that are
15 entitled to confidential treatment under the applicable legal principles. The parties
16 further acknowledge, as set forth in Section 12.3, below, that this Stipulated
17 Protective Order does not entitle them to file confidential information under seal;
18 Civil Local Rule 79-5 sets forth the procedures that must be followed and the
19 standards that will be applied when a party seeks permission from the court to file
20 material under seal.

21 **B. GOOD CAUSE STATEMENT:** This action is likely to involve trade
22 secrets, customer and pricing lists and other valuable research, development,
23 commercial, financial, technical and/or proprietary information for which special
24 protection from public disclosure and from use for any purpose other than
25 prosecution of this action is warranted. Such confidential and proprietary materials
26 and information consist of, among other things, confidential business or financial
27 information, information regarding confidential business practices, or other
28 confidential research, development, or commercial information (including

1 information implicating privacy rights of third parties), information otherwise
2 generally unavailable to the public, or which may be privileged or otherwise
3 protected from disclosure under state or federal statutes, court rules, case decisions,
4 or common law. By way of example, discovery sought by Plaintiff implicates the
5 confidential and proprietary documents processes, policies, and procedures of
6 VWGoA that were specifically developed in conjunction with its legal department,
7 supervisors, and outside counsel to create and improve a customer service apparatus
8 that maximizes VWGoA's customers' satisfaction and loyalty to the brand.
9 VWGoA has invested in continuously developing and improving its customer
10 service processes, policies, and procedures that have been requested by Plaintiffs.
11 This information is economically valuable to VWGoA and potentially to its
12 competitors who must develop and maintain their own customer service processes,
13 policies, and procedures to comply with the same applicable laws and to retain their
14 own customers. VWGoA does not freely or publicly disseminate documents
15 describing customer service processes, policies, and procedures and it does not
16 freely or publicly disseminate the output of its customer service processes, policies,
17 and procedures, such as this production. VWGoA has policies regarding dictating
18 how its employees and vendors must safeguard VWGoA's materials, including
19 documents related to its customer service processes, policies, and procedures, and
20 VWGoA endeavors to prevent public disclosure or dissemination of such
21 documents unless legally required to do so. VWGoA does not share the
22 information contained in these documents with its competitors, and VWGoA stands
23 to lose substantial ground in this competitive market if the public, including its
24 competitors, are granted access to these sensitive documents

25 Accordingly, to expedite the flow of information, to facilitate the prompt
26 resolution of disputes over confidentiality of discovery materials, to adequately
27 protect information the parties are entitled to keep confidential, to ensure that the
28 parties are permitted reasonable necessary uses of such material in preparation for

1 and in the conduct of trial, to address their handling at the end of the litigation, and
2 serve the ends of justice, a protective order for such information is justified in this
3 matter. It is the intent of the parties that information will not be designated as
4 confidential for tactical reasons and that nothing be so designated without a good
5 faith belief that it has been maintained in a confidential, non-public manner, and
6 there is good cause why it should not be part of the public record of this case.

7 **2. DEFINITIONS**

8 **2.1 Action:** United States District Court, Central District of California Case
9 No. 5:22-cv-01501

10 **2.2 Challenging Party:** a Party or Non-Party that challenges the designation
11 of information or items under this Order.

12 **2.3 “CONFIDENTIAL” Information or Items:** information (regardless of
13 how it is generated, stored or maintained) or tangible things that qualify for
14 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
15 the Good Cause Statement.

16 **2.4 Counsel:** Outside Counsel of Record and House Counsel (as well as their
17 support staff).

18 **2.5 Designating Party:** a Party or Non-Party that designates information or
19 items that it produces in disclosures or in responses to discovery as
20 “CONFIDENTIAL.”

21 **2.6 Disclosure or Discovery Material:** all items or information, regardless of
22 the medium or manner in which it is generated, stored, or maintained (including,
23 among other things, testimony, transcripts, and tangible things), that are produced
24 or generated in disclosures or responses to discovery in this matter.

25 **2.7 Expert:** a person with specialized knowledge or experience in a matter
26 pertinent to the litigation who has been retained by a Party or its counsel to serve as
27 an expert witness or as a consultant in this Action.

28

1 2.8 House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside
3 counsel.

4 2.9 Non-Party: any natural person, partnership, corporation, association, or
5 other legal entity not named as a Party to this action.

6 2.10 Outside Counsel of Record: attorneys who are not employees of a party
7 to this Action but are retained to represent or advise a party to this Action and have
8 appeared in this Action on behalf of that party or are affiliated with a law firm
9 which has appeared on behalf of that party, and includes support staff.

10 2.11 Party: any party to this Action, including all of its officers, directors,
11 employees, consultants, retained experts, and Outside Counsel of Record (and their
12 support staffs).

13 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
14 Discovery Material in this Action.

15 2.13 Professional Vendors: persons or entities that provide litigation support
16 services (e.g., photocopying, videotaping, translating, preparing exhibits or
17 demonstrations, and organizing, storing, or retrieving data in any form or medium)
18 and their employees and subcontractors.

19 2.14 Protected Material: any Disclosure or Discovery Material that is
20 designated as “CONFIDENTIAL.”

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
22 from a Producing Party.

23 3. SCOPE

24 The protections conferred by this Stipulation and Order cover not only
25 Protected Material (as defined above), but also (1) any information copied or
26 extracted from Protected Material; (2) all copies, excerpts, summaries, or
27 compilations of Protected Material; and (3) any testimony, conversations, or
28 presentations by Parties or their Counsel that might reveal Protected Material.

1 Any use of Protected Material at trial shall be governed by the orders of the
 2 trial judge. This Order does not govern the use of Protected Material at trial.

3 **4. DURATION**

4 Even after final disposition of this litigation, the confidentiality obligations
 5 imposed by this Order shall remain in effect until a Designating Party agrees
 6 otherwise in writing or a court order otherwise directs. Final disposition shall be
 7 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
 8 with or without prejudice; and (2) final judgment herein after the completion and
 9 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
 10 including the time limits for filing any motions or applications for extension of time
 11 pursuant to applicable law.

12 **5. DESIGNATING PROTECTED MATERIAL**

13 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**
 14 Each Party or Non-Party that designates information or items for protection under
 15 this Order must take care to limit any such designation to specific material that
 16 qualifies under the appropriate standards. The Designating Party must designate for
 17 protection only those parts of material, documents, items, or oral or written
 18 communications that qualify so that other portions of the material, documents,
 19 items, or communications for which protection is not warranted are not swept
 20 unjustifiably within the ambit of this Order.

21 Mass, indiscriminate, or routinized designations are prohibited. Designations
 22 that are shown to be clearly unjustified or that have been made for an improper
 23 purpose (e.g., to unnecessarily encumber the case development process or to
 24 impose unnecessary expenses and burdens on other parties) may expose the
 25 Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that it
 27 designated for protection do not qualify for protection, that Designating Party must
 28 promptly notify all other Parties that it is withdrawing the inapplicable designation.

1 5.2 Manner and Timing of Designations. Except as otherwise provided in this
 2 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
 3 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
 4 under this Order must be clearly so designated before the material is disclosed or
 5 produced.

6 Designation in conformity with this Order requires:

7 (a) for information in documentary form (e.g., paper or electronic documents,
 8 but excluding transcripts of depositions or other pretrial or trial proceedings), that
 9 the Producing Party affix at a minimum, the legend “CONFIDENTIAL”
 10 (hereinafter “CONFIDENTIAL legend”), to each page that contains protected
 11 material. If only a portion or portions of the material on a page qualifies for
 12 protection, the Producing Party also must clearly identify the protected portion(s)
 13 (e.g., by making appropriate markings in the margins).

14 A Party or Non-Party that makes original documents available for inspection
 15 need not designate them for protection until after the inspecting Party has indicated
 16 which documents it would like copied and produced. During the inspection and
 17 before the designation, all of the material made available for inspection shall be
 18 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
 19 documents it wants copied and produced, the Producing Party must determine
 20 which documents, or portions thereof, qualify for protection under this Order. Then,
 21 before producing the specified documents, the Producing Party must affix the
 22 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
 23 portion or portions of the material on a page qualifies for protection, the Producing
 24 Party also must clearly identify the protected portion(s) (e.g., by making
 25 appropriate markings in the margins).

26 (b) for testimony given in depositions that the Designating Party identify the
 27 Disclosure or Discovery Material on the record, before the close of the deposition
 28 all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend "CONFIDENTIAL." If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq.

6.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

1 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 2 disclosed or produced by another Party or by a Non-Party in connection with this
 3 Action only for prosecuting, defending, or attempting to settle this Action. Such
 4 Protected Material may be disclosed only to the categories of persons and under the
 5 conditions described in this Order. When the Action has been terminated, a
 6 Receiving Party must comply with the provisions of section 13 below (FINAL
 7 DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
 9 location and in a secure manner that ensures that access is limited to the persons
 10 authorized under this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
 12 ordered by the court or permitted in writing by the Designating Party, a Receiving
 13 Party may disclose any information or item designated “CONFIDENTIAL” only to:

14 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
 15 as employees of said Outside Counsel of Record to whom it is reasonably
 16 necessary to disclose the information for this Action;

17 (b) the officers, directors, and employees (including House Counsel) of the
 18 Receiving Party to whom disclosure is reasonably necessary for this Action;

19 (c) Experts (as defined in this Order) of the Receiving Party to whom
 20 disclosure is reasonably necessary for this Action and who have signed the
 21 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

22 (d) the court and its personnel;

23 (e) court reporters and their staff;

24 (f) professional jury or trial consultants, mock jurors, and Professional
 25 Vendors to whom disclosure is reasonably necessary for this Action and who have
 26 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

27 (g) the author or recipient of a document containing the information or a
 28 custodian or other person who otherwise possessed or knew the information;

1 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
2 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
3 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
4 will not be permitted to keep any confidential information unless they sign the
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
6 agreed by the Designating Party or ordered by the court. Pages of transcribed
7 deposition testimony or exhibits to depositions that reveal Protected Material may
8 be separately bound by the court reporter and may not be disclosed to anyone
9 except as permitted under this Stipulated Protective Order; and

10 (i) any mediator or settlement officer, and their supporting personnel,
11 mutually agreed upon by any of the parties engaged in settlement discussions.

12 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
13 IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as "CONFIDENTIAL," that Party must:

17 (a) promptly notify in writing the Designating Party. Such notification shall
18 include a copy of the subpoena or court order;

23 (c) cooperate with respect to all reasonable procedures sought to be pursued
24 by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s

1 permission. The Designating Party shall bear the burden and expense of seeking
 2 protection in that court of its confidential material and nothing in these provisions
 3 should be construed as authorizing or encouraging a Receiving Party in this Action
 4 to disobey a lawful directive from another court.

5 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
 6 **PRODUCED IN THIS LITIGATION**

7 (a) The terms of this Order are applicable to information produced by a Non-
 8 Party in this Action and designated as "CONFIDENTIAL." Such information
 9 produced by Non-Parties in connection with this litigation is protected by the
 10 remedies and relief provided by this Order. Nothing in these provisions should be
 11 construed as prohibiting a Non-Party from seeking additional protections.

12 (b) In the event that a Party is required, by a valid discovery request, to
 13 produce a Non-Party's confidential information in its possession, and the Party is
 14 subject to an agreement with the Non-Party not to produce the Non-Party's
 15 confidential information, then the Party shall:

16 (1) promptly notify in writing the Requesting Party and the Non-Party
 17 that some or all of the information requested is subject to a confidentiality
 18 agreement with a Non-Party;

19 (2) promptly provide the Non-Party with a copy of the Stipulated
 20 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 21 specific description of the information requested; and

22 (3) make the information requested available for inspection by the
 23 Non-Party, if requested.

24 (c) If the Non-Party fails to seek a protective order from this court within 14
 25 days of receiving the notice and accompanying information, the Receiving Party
 26 may produce the Non-Party's confidential information responsive to the discovery
 27 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 28 not produce any information in its possession or control that is subject to the

1 confidentiality agreement with the Non-Party before a determination by the court.
 2 Absent a court order to the contrary, the Non-Party shall bear the burden and
 3 expense of seeking protection in this court of its Protected Material.

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5 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

6 If a Receiving Party learns that, by inadvertence or otherwise, it has
 7 disclosed Protected Material to any person or in any circumstance not authorized
 8 under this Stipulated Protective Order, the Receiving Party must immediately (a)
 9 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
 10 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
 11 the person or persons to whom unauthorized disclosures were made of all the terms
 12 of this Order, and (d) request such person or persons to execute the
 13 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
 14 A.

15 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 16 **PROTECTED MATERIAL**

17 When a Producing Party gives notice to Receiving Parties that certain
 18 inadvertently produced material is subject to a claim of privilege or other
 19 protection, the obligations of the Receiving Parties are those set forth in Federal
 20 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 21 whatever procedure may be established in an e-discovery order that provides for
 22 production without prior privilege review. Pursuant to Federal Rule of Evidence
 23 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
 24 of a communication or information covered by the attorney-client privilege or work
 25 product protection, the parties may incorporate their agreement in the stipulated
 26 protective order submitted to the court.

27 **12. MISCELLANEOUS**

1 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 2 person to seek its modification by the Court in the future.

3 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 4 Protective Order no Party waives any right it otherwise would have to object to
 5 disclosing or producing any information or item on any ground not addressed in
 6 this Stipulated Protective Order. Similarly, no Party waives any right to object on
 7 any ground to use in evidence of any of the material covered by this Protective
 8 Order.

9 12.3 Filing Protected Material. A Party that seeks to file under seal any
 10 Protected Material must comply with Civil Local Rule 79-5. Protected Material
 11 may only be filed under seal pursuant to a court order authorizing the sealing of the
 12 specific Protected Material at issue. If a Party's request to file Protected Material
 13 under seal is denied by the court, then the Receiving Party may file the information
 14 in the public record unless otherwise instructed by the court.

15 13. FINAL DISPOSITION

16 After the final disposition of this Action, as defined in paragraph 4, within
 17 60 days of a written request by the Designating Party, each Receiving Party must
 18 return all Protected Material to the Producing Party or destroy such material. As
 19 used in this subdivision, "all Protected Material" includes all copies, abstracts,
 20 compilations, summaries, and any other format reproducing or capturing any of the
 21 Protected Material. Whether the Protected Material is returned or destroyed, the
 22 Receiving Party must submit a written certification to the Producing Party (and, if
 23 not the same person or entity, to the Designating Party) by the 60 day deadline that
 24 (1) identifies (by category, where appropriate) all the Protected Material that was
 25 returned or destroyed and (2)affirms that the Receiving Party has not retained any
 26 copies, abstracts, compilations, summaries or any other format reproducing or
 27 capturing any of the Protected Material. Notwithstanding this provision, Counsel
 28 are entitled to retain an archival copy of all pleadings, motion papers, trial,

1 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
2 and trial exhibits, expert reports, attorney work product, and consultant and expert
3 work product, even if such materials contain Protected Material. Any such archival
4 copies that contain or constitute Protected Material remain subject to this
5 Protective Order as set forth in Section 4 (DURATION).

6 14. Any violation of this Order may be punished by any and all appropriate
7 measures including, without limitation, contempt proceedings and/or monetary
8 sanctions.

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
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3 Dated: May 17, 2023

4 By: /s/ Gregory S. Sogoyan
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Attorneys for Plaintiff

Dated: May 17, 2023

By: /s/ Anthony P. Greco
Attorneys for Defendant
Volkswagen Group of America,
Inc.

ORDER

GOOD CAUSE APPEARING, the Court hereby approves this Stipulation and Protective Order.

IT IS SO ORDERED.

Dated: May 19, 2023

Karen L. Fenenson

HONORABLE KAREN L.
STEVENSON
Chief Magistrate Judge

SQUIRE PATTON BOGGS (US) LLP
275 Battery Street, Suite 2600
San Francisco, California 94111

1 EXHIBIT A
2

3 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND
4

5 I, _____ [print or type full name], of
6 _____ [print or type full address], declare under penalty of perjury
7 that I have read in its entirety and understand the Stipulated Protective Order that
8 was issued by the United States District Court for the Central District of California
9 on [date] in the case of *Maria D. Graham v. Volkswagen Group of America, Inc.*
10 USDC Case No. Case No. 5:22-cv-01501. I agree to comply with and to be bound
11 by all the terms of this Stipulated Protective Order and I understand and
12 acknowledge that failure to so comply could expose me to sanctions and
13 punishment in the nature of contempt. I solemnly promise that I will not disclose in
14 any manner any information or item that is subject to this Stipulated Protective
15 Order to any person or entity except in strict compliance with the provisions of this
16 Order.

17 I further agree to submit to the jurisdiction of the United States District Court
18 for the Central District of California for the purpose of enforcing the terms of this
19 Stipulated Protective Order, even if such enforcement proceedings occur after
20 termination of this action. I hereby appoint _____ [print
21 or type full name] of _____ [print or type
22 full address and telephone number] as my California agent for service of process in
23 connection with this action or any proceedings related to enforcement of this
24 Stipulated Protective Order.

25 Date: _____

26 City and State where sworn and signed: _____

27 Printed name: _____

28 Signature: _____